



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/581,058

07/24/2000

Bo Hakansson

GOTEP037

6868

21121

7590

02/03/2004

OPPEDAHL AND LARSON LLP

P O BOX 5068

DILLON, CO 80435-5068

EXAMINER

MAIORINO, ROZ

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 02/03/2004

23

Please find below and/or attached an Office communication concerning this application or proceeding.

SV

Office Action Summary

Application No.

09/581,058

Applicant(s)

HAKANSSON, BO

Examiner

Roz Maiorino

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-33 is/are allowed.
- 6) ☒ Claim(s) 12-21 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 3763

DETAILED ACTION

Specification

1. The amendment filed 11-6-2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: method, as mentioned before the applicant has never had any method steps anywhere in the old specification and hence he may NOT add any method steps to the specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 34-36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim s 34-36 are recites the limitation describing any method of use and any steps in relation to it. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 3763

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13- 19 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6473654 to Chinn.

Chinn teaches a device with an annular body member with a cavity and a plurality of separate radial arms extending radial outward from the annular body member. Since Chinn's apparatus is made for use for the anchoring on the body it would be inherent that it is made form tissue compatible material, because if it was not made out of tissue compatible material the body would react to the material and the anchor would not be able to be used. (Figure 1c)

4. Claims 19-21, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent NO.6080134 to Lotti et al.

Lotti teaches a device with an annular body member with a cavity and a plurality of separate radial arms extending radial outward from the annular body member. Wherein the radial arms are pivotable and bendable. Since Lotti's apparatus is made for use for the anchoring on the body it would be inherent that it is made form tissue compatible material, because if it was not made out of tissue compatible material the body would react to the material and the anchor would not be able to be used.(figure 5-6)

5. Claims 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.4874316 to Kamon et al.

Kamon teaches a device with an annular body member with a cavity and a plurality of separate radial arms extending radial outward from the annular body member. Since

Art Unit: 3763

Kamon 's apparatus is made for use for the anchoring on the body it would be inherent that it is made form tissue compatible material, because if it was not made out of tissue compatible material the body would react to the material and the anchor would not be able to be used.(figure 3, 1c-1e)

Response to Arguments

6. Applicant's arguments filed s 11-18-2003 have been fully considered but they are not persuasive. Applicant cannot add new matter to the specification. Applicant had failed to discuss any method in the old specification and he may not add any new material that descirbes method of use in the new specification that is considered new matter.

7. Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

8. Claims 22-33 allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Art Unit: 3763

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RM

Buhler
Buhler
Buhler
Buhler
Buhler